



Entered on Docket
October 12, 2005

A handwritten signature in black ink, reading "Bruce A. Markell".

Hon. Bruce A. Markell
United States Bankruptcy Judge

RICK A YARNALL
CHAPTER 13 BANKRUPTCY TRUSTEE
302 E Carson Ave., Suite 350
Las Vegas, NV 89101
(702) 853-4500
RAY13mail@LasVegas13.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

IN RE:
MICHAEL E FINKE
TAMMY K FINKE
3443 DEATH VALLEY DR
LAS VEGAS, NV 89122

CHAPTER 13
CASE NO: BKS-05-17154-BAM
Hearing Date: October 06, 2005
Hearing Time: 1:30 am

**ORDER CONFIRMING THE DEBTOR(S) PLAN # 1, AWARDING
FEES TO THE DEBTOR(S) ATTORNEY AND RELATED ORDERS**

Following the meeting of creditors held pursuant to 11 U.S.C. 341 at which the debtors appeared in person to be examined by creditors and other interested parties, a hearing was held pursuant to 11 U.S.C. 1324 at which Rick A Yarnall, Chapter 13 Trustee, or their appointed representative appeared in person and the debtor appeared by his attorney ROGER P CROTEAU & ASSOC
Other appearances: _____

The debtor is hereinafter referred to in the masculine, even though this be a joint case or the debtor be female. All references to the "Rules" shall be interpreted as referring to the Bankruptcy Rules unless the context indicates otherwise.

At such hearing the following objections to confirmation of the debtor (s) plan were considered:

At the hearing, the Court considered the matters presented by the Trustee, counsel for debtor(s) and by other interested parties, and upon the pleadings and statements of parties and of counsel, and the evidence presented, the Court finds that:

- A. Written notice of the meeting of creditors held pursuant to 11 U.S.C. 341 and of this hearing on the confirmation of the Plan, was given as required by Rule 2002;
- B. The Plan presented for confirmation (hereinafter referred to as "the Plan") complies with the provisions of Chapter 13 of Title 11 of the United States Code and other applicable provisions of said Title;
- C. Any fee, charges of other amounts required under Chapter 13 of Title 28, or by Plan, to be paid before confirmation has been paid;
- D. The Plan has been proposed in good faith and not by any means forbidden by law:

Object to secured claim of Cash land, J. P. Morgan (interest rate), Hyundai Motors.

E. The value, of the effective date of the Plan, of the property to be distributed under the plan on account of each allowed unsecured claim is not less than the amount that would be paid on such claim if the estate of the debtor or were liquidated under Chapter 7 of Title 11 of the United States Code on such date: and

- a. the liquidation value is and based on the non exempt equity \$ 0
- b. liquidation value is subject to the valuation of the following assets: na

F. With respect to each allowed secured claim provided by the Plan, the holder of such claim either accepted, or was deemed to have accepted the plan;

- a. (i) the Plan provides that the holder of such claims retain the lien securing such claims; and
(ii) the value, as the effective date of the Plan, of property to be distributed under the Plan on account of such claim is not less than the allowed amount of such claim; or
- b. the plan proposes to surrender the property securing such claim to the creditor,

G. If the Trustee or the holder of an allowed unsecured claim objected to the confirmation of the Plan, then the Court finds that;

- a. the value of the property to be distributed under the Plan on account such unsecured claim is not less than the amount of such claim or

(b) the plan provides that all of the debtor(s) projected disposable income, [as 'disposable income' is defined in 11 U.S.C. 1325 (b)(2)] to be received by the debtor(s) in the three year period beginning on the date that the first payment is due under the Plan.

(c) debtor is required to provide to the Trustee copies of tax returns for the next three years ~~Yes~~ [no]

IT IS ORDERED THAT:

1. The debtor(s) plan is confirmed and (if appropriate) for cause shown, payments for a period not to exceed 5 years is approved.
2. The debtor(s), or his employer, shall make the payments to the Trustee required by the Plan that was confirmed or as hereafter modified. If the debtor(s) does not cause such payments to be timely made, the Trustee shall make demand [pursuant to Section 542 (b)] or request the Court to order [pursuant to Section 1326(c)] any entity from whom the debtor(s) receives income to pay all or any part of such income to the Trustee.
3. The debtor(s) shall, when practicable, obtain the approval of the Trustee prior to incurring additional consumer debt. The failure to obtain such approval, if practicable, may cause the claim for such debt to be unallowable to the creditor, [U.S.C. 1305 (c) and the debt to be nondischargeable. [11 U.S.C. 1328(d)].
4. The Trustee shall;
 - (a) Keep a detailed record of all receipts, including the source or other identification of each receipt, and all disbursements [11 U.S.C. 1302 (b)(1)]; and
 - (b) File with the Court, or if applicable with the entity providing addressing service for the Court and the Trustee, notices for creditor's address changes brought to the attention of the Trustee [Rule 2002(g)]; and
 - (c) Deposit all funds received by the Trustee under the plan with an entity which provides insurance, guaranties of deposit in the manner prescribed by 11 U.S.C. 345.
5. Pursuant to 11 U.S.C. 1326 the order of payment, unless otherwise directed, shall be:
 - (a) Any unpaid claim of the kind specified in Section 507(a)(1) of Title 11 U.S.C.;
 - (b) The percentage fee fixed for the Trustee pursuant to Section 1302(a) of said title (or Section 586(a)(1) of Title 28, if applicable);
 - (c) Creditors whose claims are timely filed and allowed or as may be required to provide adequate protection of the interest of any entity with an interest in the property of the estate.
6. The Trustee, the debtor(s) and attorney for debtor(s) shall examine proofs of claim, or summaries thereof, and shall object to the allowances of improper claims as provided by 11 U.S.C. 704(4).
7. The Trustee shall, no less than once a year, deliver to the debtor(s) attorney a report indicating all receipts from the debtor and disbursements made by the Trustee's office within the prior year, or prior six months, if such reports are made semiannually. Additionally, the reports must indicate the existing undistributed funds on hand as described in the 9/91 Edition of the U.S. Department of Justice's Executive Office of the United States Trustees Handbook for Chapter 13 Standing Trustees.
8. Ninety days after final distribution, the Trustee shall stop payment on all checks then unpaid and file with the Clerk of the Court a list of names and addresses, so far known, of the persons entitled to such payments and the amounts thereof. The unclaimed funds shall be paid into the Court and disposed of under Chapter 129 of Title 28. [11 U.S.C. 347 Rule 3001].

ALLOWANCE OF ATTORNEY'S FEES

The application by the attorney for the debtor(s) for the allowance of reasonable compensation as authorized by 11 U.S.C. 330 , having been considered, the Court finds that reasonable fees for the service performed and undertaken by such attorney is \$ \$2,894.00 of which \$500.00 was paid to such attorney prior to the filing of the petition initiating this proceeding. The balance of such fees \$2,394.00 shall be paid by the Trustee from the monies received under the debtor(s) plan.

Attorney fees approved

☒ YES

NO

Application for fees required

YES

☒ NO

Submitted by:

/s/Rick A Yarnall

Rick A Yarnall

CHAPTER 13 BANKRUPTCY TRUSTEE

302 E Carson Ave., Suite 350

Las Vegas, NV 89101

(702) 853-4500

Approved/Disapproved:

 #7878

ROGER P CROTEAU & ASSOC

720 South Fourth Street, Suite 202

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(702) 254-7775

E-Filed 7-27-05

Attorney for Debtor(s):

Space reserved for Bankruptcy Clerk

Name: ROGER P. CROTEAU

Bar No.: 4958

ROGER P. CROTEAU & ASSOCIATES, LTD.

720 S. FOURTH ST., SUITE 202

LAS VEGAS, NEVADA 89101

Phone: (702) 254-7775

**UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEVADA
(SOUTHERN DIVISION OF NEVADA)**

In re:

Michael Finke

Tammy Finke

Debtor(s).

)
) CASE NO. BK-S- 05-17154-BAM
) CHAPTER 13
) **CHAPTER 13 PLAN - # 1**
) **PLAN MODIFICATION: (X) NA () Before**
) **() After Original Confirmation**
) Confirmation Hearing:
) DATE: 10-6-05
) TIME: 1:30 PM
)

1. **NOTICE TO CREDITORS:** *This Plan may ultimately provide a distribution to general unsecured creditors. Creditors should TIMELY file proofs of claim to participate in such distribution.*

2. **INCORPORATION OF CHAPTER 13 PLAN GUIDELINES:** This plan incorporates the Chapter 13 Plan Guidelines for Las Vegas, Nevada (hereinafter referred to as "Guidelines"). Any creditor may request a copy of the Guidelines from the Chapter 13 Trustee or the attorney for Debtor(s).

3. **PLAN PAYMENT SCHEDULE:**

	<u>Amount</u>
A. (i) \$ <u>608.00</u> per month for <u>36</u> months (Debtor(s) shall not pay less than 36 monthly payments unless Plan proposes to pay 100% to all filed and allowed claims) Payments to commence _____ (Date must match Special Directive to Debtor(s) and Their Attorney)	\$ <u>21,872.00</u>
(ii) Payments shall increase as follows: (State reason, i.e., paid in full direct during course of Plan or wage increase, etc.) \$ _____ commencing _____ Reason: _____ \$ _____ commencing _____ Reason: _____	\$ _____ \$ _____
B. Non-monthly payments: All lump sum payments must be paid into the Plan at least 6 months prior to proposed Plan expiration (Court approval may be required). <u>Source</u> <u>tax refunds - annual</u>	\$ <u>TBD</u>

5:11 PM
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C. Total minimum plan payments* \$ _____
 *If amount is pursuant to a settlement, see Exhibit attached.
 (must equal line 4.I.) \$ _____

4. CLASSIFICATION OF CLAIMS PAID BY TRUSTEE:

A. ADMINISTRATIVE CLAIMS:

(1) Debtor's Attorney Compensation
 (Must comply with Guidelines):

a. Basic Services:

Attorney fees and costs	\$2,700.00	
Filing fee	\$ 194.00	
TOTAL FOR ATTORNEY	\$2,894.00	
Less: Amount pre-paid		
By Debtor	(\$ 500.00)	
Amount to be paid		
By Trustee		\$ <u>2,394.00</u>

b. Estimated additional fees & costs:

Attorney fees & costs	\$ _____	
Less: Amount pre-paid		
By Debtor	(\$ _____)	
Amount to be paid		
By Trustee per		
Court order		\$ _____

(2) Other professionals (see Guidelines):

a. Claimant: _____
 Type of service: _____
 Amount of claim: \$ _____
 Less: Amount pre-paid
 By Debtor (\$ _____)
 Amount to be paid
 By Trustee \$ _____

(3) Other administrative claims: \$ _____

The aforementioned administrative claims shall be paid simultaneously with adequate protection payments, if any, on allowed secured claims as set forth at 4(B)(3) as follows:

a. Minimum monthly payment to attorney: \$ _____/mo.
 b. Minimum monthly payment to other professional: \$ _____/mo.

(4) Trustee Compensation: See 4(H).

B. SECURED CLAIMS:

(1) Taxes (Federal, State, City and County)

a) Creditor: _____
 Period/Type: _____ Claim amount \$ _____
 Interest rate 0 % Approx. Interest \$ 0

TOTAL CLAIM \$ _____

(2) Arrearages

a) Creditor: Wells Fargo
 Collateral: Residence Pre-petition claim \$ 5580
 Interest rate: 10 % Approx. Interest \$ 558
 Direct payment \$ 1086 To commence: August 1, 2005
 TOTAL CLAIM \$ 6,138.00

(3) Obligations Paid in Full by Trustee (refer to Section 4(B)(3) of the Guidelines)

a) Real Property

i) Creditor: _____
 Collateral: _____ Full claim amount \$ _____
 Interest rate: _____ % Approx. Interest \$ _____
 Adequate protection payment \$ _____/mo.
 TOTAL CLAIM \$ _____

b) Personal Property (vehicles, household goods, jewelry, etc.)

i) Creditor: Hyundai Motor Finance
 Collateral: 2003 Hyundai Elantra Full claim amount \$ 7,720.00
 Interest rate: 10 % Approx. Interest \$ 772.00
 Limited to fair market value of collateral: YES
 Adequate protection payment \$ _____/mo.
 TOTAL CLAIM \$ 7,792.00

ii) Creditor: Bank One
 Collateral: 2001 Hyundai Accent Full claim amount \$ 3120.00
 Interest rate: 10 % Approx. Interest \$ 312.00
 Limited to fair market value of collateral: YES
 Adequate protection payment \$ _____/mo.
 TOTAL CLAIM \$ 3,432.00

(4) Direct Payments to be made by Debtor that are not in arrears (including ongoing City and County taxes)

a) Creditor: _____
 Collateral: _____
 Regular monthly payment \$ _____/mo.
 Commence date _____ Final payment date _____

(5) Collateral to be Surrendered

a) Creditor: _____
 Collateral: _____
 Location of Collateral: _____

C. EXECUTORY CONTRACTS AND UNEXPIRED LEASES:

a) Creditor: _____
 Collateral: _____
 Reject: yes/no Returned to creditor: yes/no
 Assume: yes/no Regular monthly payment \$ _____/mo.
 No. of months remaining _____

D. UNSECURED PRIORITY CLAIMS:

(1) Taxes (Federal, State, City and County)

a) Creditor: _____
 Period/Type: _____ Claim amount \$ _____
 TOTAL CLAIM \$ _____

(2) Child Support/Alimony

a) Creditor: _____
 Interest rate: _____ % Pre-petition claim \$ _____
 Direct payment \$ _____ /mo. Approx. Interest \$ _____
 To commence: _____
 TOTAL CLAIM \$ _____

(3) Other Priority

a) Creditor: _____
 Type of Priority: _____ Pre-petition claim \$ _____
 Interest rate: _____ % Approx. Interest \$ _____
 Direct payment \$ _____ /mo. To commence: _____
 TOTAL CLAIM \$ _____

E. UNSECURED NONPRIORITY CLAIMS:

(1) Special Class

a) Creditor: _____
 Reason for special class: _____
 Pre-petition claim \$ _____
 Percentage to be paid _____ %
 TOTAL CLAIM \$ _____

(2) General Unsecured

a) Approximate total amount of all claims \$15,568.00
 Approximate percentage to be paid 0 %
 APPROXIMATE AMOUNT TO BE PAID \$ 0
 Is Approximate Amount to be Paid modifiable? Yes
 If no, explain: _____

(3) Late-Filed

a) Approximate total amount of all claims \$ _____
 Approximate percentage to be paid 0 %
 APPROXIMATE AMOUNT TO BE PAID \$ 0
 Is Approximate Amount to be Paid modifiable? Yes/no
 If no, explain: _____

F. POST-PETITION CLAIMS (11 U.S.C. §1305):

(a) Taxes (Federal, State, City and County)

a) Creditor: _____
 Period/Type: _____ Claim amount \$ _____
 Approx. Interest & penalties \$ _____
 TOTAL CLAIM \$ _____

(b) Other

a) Creditor: _____
 Type: _____ Claim amount \$ _____
 Approx. Interest & penalties \$ _____
 TOTAL CLAIM \$ _____

G. TOTAL CLAIMS PAID BY TRUSTEE: (Add A-F) \$ 19,684.00

H. TRUSTEE COMPENSATION:

(1) Not to exceed 10% (divide G. by 9) \$ 2,188.00

I. TOTAL PLAN PAYMENTS TO TRUSTEE (Add G-H, must equal 3C) \$ 21,872.00

5. ORDER OF DISTRIBUTION BY TRUSTEE: The Trustee shall distribute to allowed claims in the following order:

- A. Section 4(A) - Administrative Claims (unless 4B(3) adequate protection payments shown)
- B. Section 4(B) - Secured Claims
- C. Section 4(F) - Post Petition Claims
- D. Section 4(D) - Unsecured Priority Claims
- E. Section 4(E) - Unsecured Nonpriority Claims

6. LIENS TO BE AVOIDED BY MOTION:

a) Creditor: _____
 Collateral: _____
 Type of Lien: _____
 Value of Lien: _____

7. LIQUIDATION VALUE:

Liquidation value (from worksheet in Guidelines) \$ _____
 Liquidation value to be paid to priority claims \$ _____
 Liquidation value to be paid to non-priority claims \$ _____
 Liquidation value is based on: _____

8. SCHEDULES/STATEMENT OF FINANCIAL AFFAIRS:

Copies of the Debtor(s) Schedules and Statement of Financial Affairs may be obtained from the United States Bankruptcy Court Clerk's Office, 300 Las Vegas Blvd. South, Second Floor, Las Vegas, Nevada 89101. Documents may also be viewed via the Bankruptcy Court's website (www.nvb.uscourts.gov).

9. SIGNATURE BY DEBTOR(S):

The undersigned Debtor(s), declare under penalties of perjury, that I have read the foregoing Chapter 13 Plan, including any attached sheets, and I know and understand the contents thereof and my obligations thereunder.

Michael E. Felt
 Debtor

James Felt
 Joint Debtor (if any)

10. ATTORNEY SIGNATURE:

AA 7878
 ATTORNEY FOR DEBTOR(S)

DATE

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